

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 2474

SPONSOR: Criminal Justice Committee, Regulated Industries Committee and Senator Haridopolos

SUBJECT: Gambling

DATE: April 15, 2004

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sumner</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Herrin</u>	<u>Yeatman</u>	<u>CP</u>	<u>Favorable</u>
3.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>
4.	_____	_____	<u>RI</u>	_____
5.	_____	_____	<u>FT</u>	_____
6.	_____	_____	_____	_____

I. Summary:

The CS amends the pari-mutuel wagering law, ch. 550, F.S., to include, in part, the following:

- reduces the number of live games required for jai alai to 40 days;
- creates a 100-mile restriction on the location of new quarter horse tracks near existing pari-mutuel facilities;
- restructures taxation for pari-mutuels ;
- creates a minimum level of taxation for all pari-mutuels of \$350,000 ;
- institutes breeder awards at Gulfstream Park;
- removes simulcasting restrictions which exist in South Florida and allows for year-round simulcasting import at Florida's thoroughbred tracks;
- creates a number of purse incentives for Florida Horsemen from the new simulcasting provisions;
- includes restrictions regarding adult amusement arcades;
- includes language to protect the Hialeah permit and excuses discipline for violation of intertrack wagering provisions; and
- ties the conversion of the quarter horse permit held by Ocala Breeders Sales to a thoroughbred permit in Ocala, provided a capital investment is made of more than \$50 million on a new track. It further ties the elimination of the current 7 pm curfew on live thoroughbred racing to a new investment of more than \$100 million by a permitholder on their facility.

The CS also provides an exception to the prohibition on solicitation of participants by means of advertising for penny-ante games by allowing the posting of a notice at the dwelling or distributing notice to residents or members of the entity owning the dwelling.

This CS substantially amends the following sections of the Florida Statutes: 550.002; 550.01215; 550.054; 550.0951; 550.09514; 550.2625; 550.26352; 550.2704; 550.3551; 550.475; 550.615; 550.6305; 849.161; and 849.085. It creates sections 550.09516 and 849.1615. The CS also repeals sections 550.0745; 550.09511; 550.09512; 550.09515; 550.1625; 550.3355; 550.334; 550.375; 550.5251; and 550.71.

II. Present Situation:

Chapter 550, F.S., regulates pari-mutuel wagering.

Definition of “Full schedule of live racing or games”

The definition of “full schedule of live racing or games” in s. 550.002(11), F.S., for a greyhound or jai alai permitholder means that the permitholder conducts a combination of at least 100 live evening or matinee performances during the preceding year.

License application; periods of operation; bond, conversion of permit

Section 550.01215, F.S., requires each permitholder to file a written license application between December 15 and January 4 to conduct performances during the next state fiscal year. The application must specify the number, dates, and starting times of all performances the permitholder intends to conduct and which will be conducted as charity or scholarship performances.¹

This provision also provides exceptions for thoroughbred racing, consequences for failure to operate all performances as specified on its license, and for the administration of vacated, abandoned or unused licenses, and converted jai alai permits.

The division fixes the time, place, and number of days during which a pari-mutuel facility may conduct races or games.² However, s. 550.5251, F.S., provides for a “Florida Thoroughbred Racing Season” for thoroughbred permitholders who conducted races between January 1, 1987, and January 1, 1988. For these permitholders, the racing season is from June 1 of any year through May 31 of the following year.

Application for permit to conduct pari-mutuel wagering

Section 550.054, F.S., provides that any qualified person may apply to the Division of Pari-Mutuel Wagering (division) for a permit to conduct pari-mutuel wagering under ch. 550, F.S. Some of the conditions for obtaining a permit are as follows:

- The county in which an applicant proposes to conduct pari-mutuel wagering must ratify the conduct of such activity.
- An application for permit, except quarterhorse permits, may be considered only if the proposed location is at least 100 miles from an existing pari-mutuel facility which

¹ s. 550.054, F.S., requires that prior to this application process, the application for a permit to conduct pari-mutuel wagering must be filed with the division.

² s. 550.01215(3), F.S.

conducts horseraces, harness horse races, or greyhound racing, and for jai alai at least 50 miles.

- Each applicant must provide names and addresses, and/or equity holdings.
- Financial statements and agreements must be provided.
- A business plan must be provided.
- Fingerprints of owners, directors, or others named in the application for permit must be provided.

Upon receipt of an application, the division would conduct an investigation into the matters contained in the application. For operation of a cardroom under ch. 849.086, F.S., a permit must have been issued to conduct pari-mutuel wagering subject to the conditions above. Additionally, cardroom permits are subject to county commission approval with relocation subject to referendum election.

Payment of daily license fee and taxes

Section 550.0951, F.S., provides that all permitholders pay a daily license fee on each live or simulcast pari-mutuel event as follows:

- \$100 for each horserace;
- \$80 for each dograce; and
- \$40 for each jai alai game.

Greyhound permitholders receive a tax exemption of \$360,000 or \$500,000 per permitholder per state fiscal year and also receives in the current fiscal year a tax credit equal to the number of live greyhound races conducted in the previous year times the daily license fee specified for each dograce.

If the permitholder cannot utilize the full amount of the exemption or the daily license fee credit, the permitholder may, after notifying the division in writing, elect once per state fiscal year to transfer the exemption or credit or any portion thereof to any greyhound permitholder that acts as a host track to such permitholder for the purpose of intertrack wagering.

An admission tax equal to 15 percent of the admission charge, or 10 cents, whichever is greater is imposed on each person attending a horse race, dograce, or jai alai game. An admission tax may not be imposed on any free passes or complimentary cards issued. A permitholder may issue tax free passes to its officers, officials, and employees or other persons who work at the racetrack including accredited press representatives.

Each permitholder must pay tax on contributions to pari-mutuel pools (handle), on races or games conducted by the permitholder. The tax is imposed daily and is based on the total contributions to all pari-mutuel pools conducted during the daily performance. If a permitholder conducts more than one performance daily, the tax is imposed on each performance separately.

The tax on handle for:

- Quarter horse racing is 1.0 percent of the handle;
- Dogracing is 5.5 percent of the handle; and
- Jai alai is 7.1 percent of the handle.

The tax on handle for intertrack wagering is 2.0 percent of the handle if the host track is a horse track, 3.3 percent if the host track is a harness track, 5.5 percent if the host track is a dog track, and 7.1 percent if the host track is a jai alai fronton. The tax on handle for intertrack wagering is 0.5 percent if the host track and the guest track are thoroughbred permitholders or if the guest track is located outside the market area of the host track and within the market area of a thoroughbred permitholder currently conducting a live race meet. The tax on handle for intertrack wagering on rebroadcasts of simulcast thoroughbred horseraces is 2.4 percent of the handle and 1.5 percent of the handle for intertrack wagering on rebroadcasts of simulcast harness horseraces. The tax shall be deposited into the Pari-mutuel Wagering Trust Fund.

The tax on handle for intertrack wagers accepted by any dog track located in an area of the state in which there are only three permitholders, all of which are greyhound permitholders, located in three contiguous counties, from any greyhound permitholder also located within such area or any dog track or jai alai fronton located as specified in ss. 550.615(6) or (9), F.S., on races or games received from the same class of permitholder located within the same market area is 3.9 percent if the host facility is a greyhound permitholder and, if the host facility is a jai alai permitholder, the rate shall be 6.1 percent except that it shall be 2.3 percent on handle at such time as the total tax on intertrack handle paid to the division by the permitholder during the current state fiscal year exceeds the total tax on intertrack handle paid to the division by the permitholder during the 1992-1993 state fiscal year.

Notwithstanding any other provision of ch. 550, F.S., in order to protect the Florida jai alai industry, effective July 1, 2000, a jai alai permitholder may not be taxed on live handle at a rate higher than 2 percent.

BREAKS TAX

Effective October 1, 1996, each permitholder conducting jai alai performances shall pay a tax equal to the breaks. The "breaks" represents that portion of each pari-mutuel pool which is not redistributed to the contributors or withheld by the permitholder as commission.

PENALTIES

The failure of any permitholder to make required payments may result in a civil penalty of up to \$1,000 for each day the tax payment is not remitted. All penalties imposed and collected are to be deposited in the General Revenue Fund. If a permitholder fails to pay penalties imposed by order of the division, the division may suspend or revoke the license of the permitholder, cancel the permit of the permitholder, or deny issuance of any further license or permit to the permitholder.

In addition to the civil penalty, any willful or wanton failure by any permitholder to make payments of the daily license fee, admission tax, tax on handle, or breaks tax constitutes sufficient grounds for the division to suspend or revoke the license of the permitholder, to cancel the permit of the permitholder, or to deny issuance of any further license or permit to the permitholder.

Greyhound dogracing taxes; purse requirements

Wagering on greyhound racing is subject to a tax on handle for live greyhound racing as specified in s. 550.0951(3), F.S. However, each permitholder shall pay no tax on handle until such time as this subsection has resulted in a tax savings per state fiscal year of \$360,000. Thereafter, each permitholder shall pay the tax as specified in s. 550.0951(3), F.S., on all handle for the remainder of the permitholder's current race meet, and the tax must be calculated and commence beginning the day after the biweekly period in which the permitholder reaches the maximum tax savings per state fiscal year provided in this section. For the three permitholders that conducted a full schedule of live racing in 1995, and are closest to another state that authorizes greyhound pari-mutuel wagering, the maximum tax savings per state fiscal year shall be \$500,000. The provisions of this subsection relating to tax exemptions shall not apply to any charity or scholarship performances conducted pursuant to s. 550.0351, F.S.³

Horseracing; minimum purse requirement, Florida breeders' and owners' awards

Each permitholder conducting a horserace meet is required to pay from the takeout withheld on pari-mutuel pools a sum for purses in accordance with the type of race performed.

A permitholder conducting a thoroughbred horse race meet under this chapter must pay from the takeout withheld a sum not less than 7.75 percent of all contributions to pari-mutuel pools conducted during the race meet as purses. In addition to the 7.75 percent minimum purse payment, permitholders conducting live thoroughbred performances shall be required to pay as additional purses .625 percent of live handle for performances conducted during the period beginning on January 3 and ending March 16; .225 percent for performances conducted during the period beginning March 17 and ending May 22; and .85 percent for performances conducted during the period beginning May 23 and ending January 2. Except that any thoroughbred permitholder whose total handle on live performances during the 1991-1992 state fiscal year was not greater than \$34 million is not subject to this additional purse payment. A permitholder authorized to conduct thoroughbred racing may withhold from the handle an additional amount equal to 1 percent on exotic wagering for use as owners' awards, and may withhold from the handle an amount equal to 2 percent on exotic wagering for use as overnight purses. No permitholder may withhold in excess of 20 percent from the handle without withholding the amounts set forth in this subsection.

Simulcasting and Intertrack Wagering

Section 550.002(32), F.S., defines simulcasting as:

broadcasting events occurring live at an in-state location to an out-of-state location, or receiving at an in-state location events occurring live at an out-of-state location by the transmittal, retransmittal, reception, and rebroadcast of television or radio signals by wire, cable, satellite, microwave, or other electrical or electronic means for receiving or rebroadcasting the events.

³ Section 550.09514, F.S.

Intertrack wagering is defined in s. 550.002(17), F.S., as:

a particular form of pari-mutuel wagering in which wagers are accepted at a permitted, in-state track, fronton, or pari-mutuel facility on a race or game transmitted from and performed live at, or simulcast signal rebroadcast from, another in-state pari-mutuel.

Simulcasting and intertrack wagering interactions occur at guest and host tracks. Host tracks transmit signals to a guest track and the guest track takes wagers on that signal. Host tracks are tracks or frontons that conduct a live or simulcast race or game that is the subject of an intertrack wager.⁴ A guest track is a track or fronton receiving or accepting an intertrack wager.⁵

All costs of racing transmissions of the broadcasts are the guest track's responsibility, and all costs of sending the broadcast are the host track's responsibility.⁶

All money wagered by patrons of the Florida track on simulcast races is computed as part of the total live handle at that track and is taxed at the track's live rate. The handle is the aggregate wagers that go to the pari-mutuel pool for pari-mutuel races and games.⁷ Handle is generated when wagers are placed at an out-of state facility on a Florida race and are taxed in the state where the wager is taken.

Simulcasting may only be accepted between facilities with the same class of pari-mutuel wagering permit,⁸ e.g., horseracing permitholders may only receive and broadcast signals from other horseracing permitholders. However, simulcasting also includes the rebroadcast of the signal to in-state permitholder and certain exceptions apply.⁹ Simulcast signals must be made available to all permitholders eligible to conduct intertrack wagering under the provisions of ss. 550.615-550.6345, F.S.¹⁰

Broadcasts of horseraces both to and from this state must also comply with the provisions of the Interstate Horseracing Act of 1978 (IHA).¹¹ The IHA requires that the permitholder receive the consent of the host racing association, host racing commission, and off-track racing commission as a prerequisite to acceptance of a wager.

Section 550.615, F.S., creates specific limitations on the exchange of intertrack signals, including the following limitations:

- The track or fronton must be licensed and must have conducted a full schedule of live racing in the preceding year to receive broadcasts and accept wagers.¹²

⁴ s. 550.002(16), F.S.

⁵ s. 550.002(12), F.S.

⁶ s. 550.615(10), F.S.

⁷ s. 550.002(13), F.S.

⁸ s. 550.3551, F.S.

⁹ s. 550.615, F.S.

¹⁰ s. 550.6305(9), F.S.

¹¹ 92 Stat. 1811, 15 U.S.C. ss. 3001 et seq.

¹² s. 550.615(2), F.S.

- Host tracks may require a guest track within 25 miles of another permitholder to receive in any week at least 60 percent of the host track's live races that the host track is making available on the days that the guest track is operating live races or games.¹³
 - A host track may also require, when the guest track is not operating live and is within 25 miles of another permitholder, that it accept 60 percent of the host track's live races that it is making available in that week.
 - Permitholders may not attempt to restrain a permitholder from sending or receiving intertrack wagering broadcasts.
 - Provisions of this subsection are applicable to Dade, Broward, Pinellas, Hillsborough, Duval, Volusia, Clay, and Seminole Counties.
- Guest tracks within the market area (a market area is defined as an area within 25 miles of a permitholder's track or fronton¹⁴) of the operating permitholder must receive consent from the host track to receive the same class signal.¹⁵
- Permitholders within the market area of the host track must have the consent of the host track to take an intertrack wager. For example, Tampa Greyhound Track (Associated Outdoor Club, Inc.) could not accept wagers on races from Tampa Bay Downs, Inc., (TBD) without TBD's permission.¹⁶
- When there are three or more horserace permitholders within 25 miles of each other (this is currently applicable to Dade and Broward Counties) a greyhound or jai alai permitholder may accept intertrack wagers on races or games conducted live by a permitholder of the same class or any harness permitholder located within such area.¹⁷
 - Any harness permitholder may accept wagers on games conducted live by any jai alai permitholder located within its market area and from a jai alai permitholder located within the area when no jai alai permitholder located within its market area is conducting live performances.
 - Greyhound or jai alai permitholders may receive broadcasts of, and accept wagers on, any permitholder as long as a permitholder, other than the host track, is not operating a contemporaneous live performance within the market area.
- In any county of the state where there are only two pari-mutuel permitholders, a permitholder is required to receive the written consent of the other permitholder if it wishes to conduct intertrack wagering and is not conducting live races or games. If

¹³s. 550.615(3), F.S.

¹⁴s. 550.002(13), F.S.

¹⁵s. 550.615(4), F.S.

¹⁶s. 550.615(5), F.S.

¹⁷s. 550.615(6), F.S.

neither permitholder is conducting live races or games, wagers may be accepted on horseraces, games, or both.¹⁸ This is applicable to Volusia and Palm Beach counties, however, the jai alai permits are not active.

- In any three contiguous counties where there are only three greyhound permitholders, a permitholder who leases a facility of another permitholder to conduct its live race meet may conduct intertrack wagering throughout the year, including the time the live meet is being conducted at the leased facility. For example, in North Florida, St. Johns Greyhound (a.k.a. Bayard Raceways), located in St. Johns County, does not run live races but leases its meet out to the Orange Park Kennel Club, Inc., in Clay County. By doing so, Bayard Raceways is able to receive intertrack wagering at its facility.¹⁹
- In any two contiguous counties where there are four active permitholders consisting of one for thoroughbred, two for greyhound, and one for jai alai, no intertrack wager may be accepted on the same class of live races or games of any permitholder without the written consent of such operating permitholders conducting the same class of live races or games if the guest track is within the market area of such operating permitholder. This provision originally applied to Pinellas and Hillsborough counties. However, the fronton in Tampa (Florida Gaming Centers) currently has an inactive permit.²⁰ However, the requirement in s. 550.615(4), F.S., for the written consent remains applicable.

Amusement Arcades

Arcade amusement centers having coin-operated amusement games or machines are exempted from the prohibitions on gambling under ch. 849, F.S., as long as the games are games of skill.²¹ ²² An arcade amusement center as used in s. 849.161, F.S., means a place of business having at least 50 coin-operated amusement games or machines on premises which are operated for the entertainment of the general public and tourists as a bona fide amusement facility.²³ The person playing or operating the game or machine is entitled to receive points or coupons which may be exchanged for merchandise only. Merchandise does not include cash and alcoholic beverages. The cost value of the merchandise or prize awarded in exchange for such points or coupons may not exceed 75 cents on any game played.²⁴

Many adult arcade establishments have opened around the state. These establishments have machines that resemble the traditional slot machines, but allow the players to stop the circling slots at a certain time and win. The players win gift certificates that can be redeemed at local

¹⁸ s. 550.615(7), F.S.

¹⁹ s. 550.615(8), F.S.

²⁰ s. 550.615(9), F.S.

²¹ Coin-operated games of chance (also known as slot machines) are not exempted. *See* s. 849.16, F.S.

²² There is a pending appeal in the 2d DCA challenging a lower court ruling that found, in part, that ss. 849.01 and 849.15, F.S. are unconstitutionally vague when read in conjunction with s. 849.161(1)(a)1., F.S. *State of Florida v. Mark Cyphers, Donna Mckinney*, (2d DCA) Case No. 2D03-1272. In 1995, the Attorney General opined that under s. 849.161, F.S., the playing of an amusement game or machine does not appear to require that the outcome of the game be dependent solely on skill, though skill must be a factor. Fla. AGO 95-27.

²³ Section 849.161(2), F.S.

²⁴ Section 849.161(1)(a) 1., F.S.

stores and supermarkets. In many cases the certificates can be redeemed for both merchandise and cash.²⁵

In November 2003, law enforcement officials closed eight adult arcade establishments in Volusia and St. Johns counties and confiscated 400 machines as gambling devices.²⁶ The defendants in that case accepted a plea agreement to lesser charges after the circuit judge had ruled that the machines were games of chance, the skill level needed was “minimal” and other violations of ch. 849, F.S.²⁷ Law enforcement agencies have closed down adult arcades in Pinellas County, Hillsborough County, Panama City, and Sarasota.²⁸ In Sarasota, the Circuit Court dismissed similar charges and held ss. 849.01 and 849.15, F.S., unconstitutionally vague when read in conjunction with s. 849.161(1)(a)1., F.S.²⁹

Municipalities have either placed moratoriums on occupational licenses for adult arcades³⁰ or provided zoning restrictions on where adult arcades can be located.³¹

Also excluded from this exemption are those coin operated amusement games or devices designed and manufactured only for amusement purposes which by application of skill entitle the player to replay the game or device at no additional cost, if the game or device:

- can accumulate and react to no more than 15 free replays;
- can be discharged of accumulated free replays only by reactivating the game or device for one additional play for such accumulated free replay; and
- can make no permanent record, directly or indirectly, of free replays; and is not classified by the United States as a gambling device in 24 U.S.C. s. 1171, which requires identification of each device by permanently affixing seriatim numbering and name, trade name, and date of manufacture under s. 1173, and registration with the United States Attorney General, unless excluded from applicability of the chapter under s. 1178.

“Penny-ante game”³² means a game or series of games of poker, pinochle, bridge, rummy, canasta, hearts, dominoes, or mah-jongg in which the winnings of any player in a single round, hand, or game do not exceed \$10 in value. The game must be conducted in a dwelling and a person may not receive any consideration or commission for allowing a penny-ante game to occur in his or her dwelling.

²⁵ Brief of Appellant, *State v. Cyphers*, No. 2D03-1272 (Fla. 2^d DCA).

²⁶ Cindy F. Crawford, November 8, 2003, “Officials Swoop In, Close Adult Gaming Arcades, 400 Machines Carted Away for Inspection,” *Daytona Beach News-Journal*, 1A.

²⁷ Cindy F. Crawford, January 17, 2004, “Plea Deal Keeps Casino Arcades Shuttered for Now,” *Daytona Beach News-Journal*, 1A. *State of Florida v. Michel Delorne*, Case No. 2003-35783CFAES, Seventh Judicial Circuit.

²⁸ See *supra*, note 22.

²⁹ *State v. Cyphers*, No. 2002 CF 5480 (Fla. 12th Cir. Ct. Feb. 18, 2004). The court held that the statutes do not provide adequate notice of the conduct it prohibits when measured by common understanding and practice and that s. 849.161(1)(a)1., F.S., does not adequately inform the defendant how much skill a game must have to qualify for the exemption provided in the section.

³⁰ Cindy F. Crawford, November 5, 2003, “Moratorium on Arcades OK with Council,” *Daytona Beach News-Journal*, 1A, where the Edgewater City Council established a six-month moratorium on occupational licenses for adult arcades. The City of Lauderdale Lakes adopted a 60-day moratorium. Toni Marshall, March 19, 2004, “Lakes Nixes New Adult Arcade Centers, 60-Day Moratorium in Place Until City Can Pass New Rules,” *Sun-Sentinel*, Community News 1

³¹ Millie Lapidario, March 20, 2004, “City Sets Adult Arcade Regulations,” *Daytona Beach News-Journal*, 3A

³² s. 849.085(2)(a), F.S.

Participating in the play of penny-ante games is not a crime.³³ However, the following restrictions apply:³⁴

- The game must be conducted in a dwelling.
- A person may not receive any consideration or commission for allowing a penny-ante game to occur in his or her dwelling.
- A person may not directly or indirectly charge admission or any other fee for participation in the game.
- A person may not solicit participants by means of advertising in any form, advertise the time or place of any penny-ante game, or advertise the fact that the solicitor will be a participant in any penny-ante game.
- A penny-ante game may not be conducted in which any participant is under 18 years of age.

A dwelling means residential premises owned or rented by a participant in a penny-ante game and occupied by such participant or the common elements or common areas of a condominium, cooperative, residential subdivision, or mobile home park of which a participant in a penny-ante game is a unit owner, or the facilities of an organization which is tax exempt under s. 501(c)(7) of the Internal Revenue Code.³⁵ The term dwelling also includes a college dormitory room or the common recreational area of a college dormitory or a publicly owned community center owned by a municipality or county.

III. Effect of Proposed Changes:

Section 1. Definitions.

The bill amends the definition of “full schedule of live racing or games” under s. 550.002, F.S., to mean that for a greyhound or harness permitholder, the conduct of a combination of at least 100 live evening or matinee performances during the preceding year; for a quarter or thoroughbred horserace permitholder or a jai alai permitholder, the terms mean the conduct of at least 40 live regular wagering performances during the preceding year. A live performance must consist of no fewer than eight races or games conducted live for each of a minimum of three performances each week at the permitholder’s licensed facility under a single admission charge.

Section 2. License application; periods of operation; bond, conversion of permit.

The bill deletes parts of s. 550.01215, F.S., that required that each application for a license include that for each thoroughbred permitholder which elects to receive or rebroadcast out of state races after 7 p.m., the dates for all performances which the permitholder intends to conduct.

It deletes the provision that provided that any permit that was converted from a jai alai permit to a greyhound permit may be converted to a jai alai permit at any time if the permitholder never

³³ s. 849.085(1), F.S.

³⁴ s. 849.085(3), F.S.

³⁵ These organizations are clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.

conducted greyhound racing or if the permit holder has not conducted greyhound racing for a period of 12 consecutive months.

Section 3. Application for permit to conduct pari-mutuel wagering

The bill amends s. 550.054(2), F.S., to provide that an application for permit may not be considered nor issued by the division or be voted upon in any county, to conduct horseraces, harness horse races, or dograces at a location within 100 miles of an existing pari-mutuel facility, or for jai alai within 50 miles of an existing pari-mutuel facility, *unless all active permit holders within the county in which the new permit is to be located agree to issuance of the new permit.*

Section 4. Payment of daily license fee and taxes

The bill amends s. 550.0951, F.S., to provide that pari-mutuel wagering at horsetracks, dog racetracks, and jai alai frontons in this state is an important business enterprise, and taxes derived therefrom construed a part of the tax structure that funds operation of the state. Horserace, greyhound, and jai alai permit holders should pay their fair share of these taxes to the state. This business interest should not be taxed to such an extent as to cause any permit holder that is operating under sound business principles to be forced out of business. Due to the need to protect the public health, safety, and welfare, the gaming laws of the state provide for pari-mutuel permit holders to be highly regulated and taxed. The state recognized that there exist identifiable differences between horserace permit holders, greyhound permit holders, and jai alai permit holders based upon their ability to operate under such regulation and tax system.

The bill deletes provisions regarding:

- the daily license fee for jai alai
- the provisions relating to the tax exemption of \$360,000 or \$500,000 for greyhound permit holders in s. 550.0951(1)(a), F.S.;
- the admission tax; and
- the tax on handle for jai alai.

It amends the section to provide that the tax on handle for intertrack wagering is 1.5 percent of the handle if the guest track is located within the market area of the host dog track. It provides that for permit holders located as specified in s. 550.615(2), F.S., and conducting intertrack wagering on rebroadcasts of simulcast thoroughbred horseraces, the tax on handle is 1.0 percent of the handle, and the host thoroughbred permit holder shall retain 1.4 percent of the handle to be used for purses.

It provides that the tax on handle for intertrack wagering on rebroadcasts of simulcast harness horseraces is 1.5 percent of the handle. It deletes the provision that requires that the tax on handle be deposited into the Pari-mutuel Wagering Trust Fund.

It deletes the provisions that provided for the tax on handle for intertrack wagers accepted by any dog track located in the Jacksonville area of the state and tax breaks.

It creates a new provision for a jai alai annual license fee that provides that a licensed jai alai permit holder may not be liable for any other fees or taxes imposed by ch. 550, F.S., for the conduct of pari-mutuel wagering and shall instead pay an annual license fee of \$350,000 for the

privilege of holding and operating a permit to conduct pari-mutuel wagering authorized under ch. 550, F.S. The fee is payable within 5 days after the commencement of the jai alai permitholder's live meet. A jai alai permitholder may use any credits accrued under s. 550.1646, F.S., and any unused tax credits from the operation of s. 550.09511, F.S., as an offset to the annual license fee; however, a jai alai permitholder conducting fewer than 100 live performances in any calendar year may not use these credits to pay to the state less than the aggregate amount of pari-mutuel taxes and fees which the permitholder paid to the state during the most recent prior calendar year in which the jai alai permitholder conducted at least 100 live performances. A jai alai permitholder shall remit monthly a report under oath to the division showing the total of the pari-mutuel wagering activities for the preceding month and such other information as is prescribed by the division.

It creates a new provision for minimum payments for greyhound and horsetracks that provides that in the event a greyhound or horserace permitholder at the conclusion of its racing meet has not paid over the preceding 12 months at least \$350,000 in the aggregate of daily license fees and tax on handle, the permitholder shall pay to the division the difference between the aggregate taxes and daily license fees paid and \$350,000.

It amends the section on payment and disposition of fees and taxes to provide that the daily license fees and taxes on handle shall be remitted to the division by 3 p.m. of the 5th day of each calendar month for taxes and fees imposed and collected for the preceding calendar month.

Section 5. Greyhound dogracing taxes; purse requirements.

The bill deletes s. 550.09514(1), F.S., that provides for the tax on handle for greyhound racing.

Section 6. Horseracing; minimum purse requirement, Florida breeders' and owners' awards.

The bill deletes the provision in s. 550.2625(2)(a), F.S., that provides that no permitholder may withhold in excess of 20 percent from the handle without withholding the amounts required in the subsection.

It amends s. 550.02625(3), F.S., to replace the words "intertrack race and intertrack simulcast" with "broadcast" and provides that each horseracing permitholder conducting any thoroughbred race under ch. 550, F.S., including *via receipt of a broadcast* shall pay a sum equal to 0.955 percent on all pari-mutuel pools conducted during any such race for the payment of breeders' , stallion, or special racing awards as authorized in ch. 550, F.S.

Section 7. Breeders' Cup Meet; pools authorized; conflicts; taxes; credits; transmission of races; rules application.

Nonsubstantive conforming changes are made in this section.

Section 8. Jai Alai Tournament of Champions Meet.

Nonsubstantive conforming changes are made in this section.

Section 9. Transmission of racing and jai alai information; commingling of pari-mutuel pools.

The bill amends s. 550.3551, F.S., to provide that as a condition precedent to receiving broadcasts from locations outside the state, an operating thoroughbred permitholder shall provide its consent to all licensed thoroughbred permitholders within its market area to receive broadcasts of horse races conducted live at its facility and from locations outside the state.

The bill creates a provision that provides that notwithstanding any contrary provision of ch. 550, F.S., a license thoroughbred permitholder may, at any time on a day when the permitholder conducts live thoroughbred racing at its pari-mutuel facility, offer to patrons at its pari-mutuel facility wagering on broadcasts of horseraces conducted at other horse racetracks located outside the state. If the permitholder conducted at least 80 days of live thoroughbred racing at its pari-mutuel facility during the preceding state fiscal year, the permitholder may also, at any time on a day when the permitholder does not conduct live thoroughbred racing at its pari-mutuel facility offer to patrons at the facility wagering on broadcasts of horseraces conducted at other horse racetracks located outside the state. If the permitholder conducted fewer than 80 days of live racing at its facility during the preceding state fiscal year, it may at any time on a day when it is not conducting live racing, offer patrons wagering on broadcasts of thoroughbred horseraces conducted at an out of state location but only if the permitholder, the Florida Thoroughbred Breeders' Association, and the association representing a majority of the thoroughbred racehorse owners and trainers at the facility enter into a prior written agreement on file with the division allowing receipt of such broadcast.

It also provides that from wagers accepted by a thoroughbred permitholder outside of its current race meet, 1.9 percent of the handle shall be paid monthly for purses to the thoroughbred permitholder within its market area which is conducting live races. If there are no operating thoroughbred permitholders within its market area, the purse money shall be distributed equally to any thoroughbred permitholders conducting live racing.

It creates a provision that provides that a thoroughbred permitholder that offers its patrons broadcasts of thoroughbred horseraces located outside the state during its current racing met shall pay into its purse account for use as purses 50 percent of the new proceeds retained by the thoroughbred permitholder on the wagers after payment of any fees to the out-of-state thoroughbred track.

Section 10. Lease of pari-mutuel facilities by pari-mutuel permitholders.

It creates a provision that provides that the operator of any licensed racetrack is authorized to lease such track to any quarter horse racing permitholder for the conduct of quarter horse racing under ch. 550, F.S.

Section 11. Intertrack wagering

It amends s. 550.615(6), F.S., to provide that a harness permitholder may not accept intertrack wagers from any greyhound permitholder or, except as authorized by s. 550.6305(9)(g)2., F.S., from any thoroughbred permitholder in any area of the state where there are three or more horserace permitholders within 25 miles of each other.

It creates a subsection that provides that a permitholder may engage in intertrack wagering with any other licensed permitholder to which it is affiliated by virtue of common ownership and shall pay the tax on handle as if the intertrack wager were placed on the live race or game conducted at the affiliated host track.

Section 12. Intertrack wagering; guest track payments; accounting rules.

The bill deletes s. 550.6305 (1)(a) and (b), F.S., regarding guest track payment requirements for thoroughbred permitholders.

It creates a subsection that provides that permitholders as specified in s. 550.615(8), F.S., may accept wagers on rebroadcasts of out-of state thoroughbred horse races from an in-state thoroughbred permitholder and shall not be subject to provisions of paragraph (b) of the section if the thoroughbred permitholder is located outside of its market and both are conducting live races and accepting wagers on out-of-state horseraces. Fifty percent of the net proceeds go to the guest permitholder, the remaining 21.5 percent goes to the host facility and 28.5 percent shall be paid by the host facility as purses at the host facility.

Section 13. Conditions on horseracing; Florida bred; additional breed racing.

The bill creates a new section that provides for additional race days for the different horse breeds.

Section 14. Conversion of a quarter horse permit to a thoroughbred permit.

The bill creates a section to provide for conversion of a quarter horse permit to a thoroughbred permit in any county where there are only two-pari-mutuel permits, one for jai alai and one for quarter horse racing.

Section 15. Annual fee for dormant permits; revocation.

The bill creates a provision for dormant permitholders to pay an annual fee of \$350,000.

Section 16.

The bill repeals ss. 550.0745, 550.09511, 550.09512, 550.09515, 550.1625, 550.3355, 550.334, 550.375, 550.5251, and 550.71.

Section 17

The bill creates a provision that allows the division to certify the expenditure by a pari-mutuel permitholder and its affiliated companies of \$100 million on capital improvements to its racing facility, s. 550.5251, F.S., is repealed and s. 2 of the act shall become law.

Section 18.

The bill creates a provision that will allow Hialeah Park to keep its permit and Gulfstream Park to be excused from discipline for violations of s. 550.615, F.S., by the division.

Section 19.

The bill amends Section 849.161(1)(a)1., F.S., to provide that at arcade amusement centers, the amusement games or machines may be games or machines played by application of skill. The bill excludes slot machines or devices that have an element of chance or other unpredictable outcome that entitles the player to money, credit, allowance, or thing of value or additional

chance or right to use the machine or device, or to receive any check, slug, token or memorandum entitling the holder to receive any money, credit, allowance or thing of value³⁶ from the games permitted at arcade amusement centers.

Tobacco products or coupons redeemable for cash, alcoholic beverages, or tobacco products are excluded from the type of merchandise a player is entitled to receive in exchange for the points or coupons the player receives after playing the amusement game at an arcade amusement center.

Merchandise or a prize awarded may not exceed a value of \$10. All points or coupons received by a player may be exchanged for the specific product only at the same business location where the game or machine operated by the player is located. Points or coupons received by a player may not be exchanged for any gift certificate, mail order certificate, or similar conveyance that is redeemable at another business location or deliverable from a location other than where the arcade is located.

Section 20:

The bill creates s. 849.1615, F.S. that provides that nothing contained in the chapter shall be taken or construed as applicable to any retail dealer that operates as a truck stop, as defined in ch. 336, F.S., and that operates a minimum of six functional diesel fuel pumps, having amusement games or machines which operate by means of the insertion of a coin or other currency and which by application of skill may entitle the person playing or operating the game or machine to receive points or coupons that may be exchanged for merchandise limited to noncash prizes, toys, novelties, and Florida Lottery products, excluding alcoholic beverages, provided the cost value of the merchandise or prize awarded in exchange for such points or coupons does not exceed 75 cents on any game played. All points or coupons received by a player may be exchanged for the specific product only at the same business location where the game or machine operated by the player is located. Points or coupons received by a player may not be exchanged for any gift certificate, mail order certificate, or similar conveyance that is redeemable at another business location or deliverable from a location other than where the arcade is located. This section applies only to games and machines that are operated for the entertainment of the general public and tourists as bonafide amusement games or machines. This section does not apply to any slot machine. The section may not be construed to authorize video poker games or any other game or machine that may be construed as a gambling device under federal law.

Nonsubstantive conforming changes are made to correct a federal statutory citation from 24 U.S.C. s. 1171 to chapter 24 of Title 15 U.S.C. under s. 1171 in s. 849.161(1)(a)2. and (b), F.S. The bill deletes s. 849.161(1)(a)2., F.S.

Section 21:

The CS amends s. 849.085(3)(d), F.S., to provide an exception to the prohibition on advertising the time and place of a penny-ante game by allowing the posting of a notice at the dwelling or distributing notice to residents or members of the entity owning the dwelling. Providing this exception will allow the residents of these dwellings to advertise upcoming penny-ante games in flyers or newsletters.

³⁶ Section 849.15, F.S.

Section 22:

Provides an effective date.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.